

EXHIBIT F

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
LG PHILIPS LCD CO., LTD.,) VOLUME 1
Plaintiff,)
v.)
TATUNG COMPANY, TATUNG)
COMPANY OF AMERICA, INC.,)
CHUNGHWA PICTURE TUBES)
LTD., and VIEWSONIC)
CORPORATION,)
Defendant.)

C.A. No. 05-292-JJF

Monday, July 17, 2006

9:30 a.m.

Courtroom 4B

844 King Street

Wilmington, Delaware

BEFORE: THE HONORABLE JOSEPH J. FARNAN, JR.

United States District Court Judge

APPEARANCES:

THE BAYARD FIRM

BY: RICHARD D. KIRK, ESQ.

-and-

McKENNA, LONG & ALDRIDGE, LLP

BY: GASPARE J. BONO, ESQ.

BY: CASS W. CHRISTENSON, ESQ.

BY: ADRIAN P.J. MOLLO, ESQ.

Counsel for the Plaintiff

2

[1] THE CLERK: All rise.
[2] THE COURT: Be seated. Good
[3] morning.
[4] [(Everyone said, Good morning,
[5] Your Honor.)
[6] THE COURT: All right. Good
[7] morning.
[8] I have this letter from Mr.
[9] Whetzel alleging that there are violations of my
[10] orders designed to get the parties prepared for
[11] the trial to commence this morning.
[12] And it goes in some detail about
[13] different matters of exhibit production, witness
[14] deposition, witness proposals and designations.
[15] It hasn't been marked with a docket item yet,
[16] because I just received it about 15 minutes ago.
[17] Who wants to argue this letter on
[18] behalf of defendants?
[19] MS. GABLER: I do, Your Honor.
[20] THE COURT: All right. I'll give
[21] you five minutes to tell me what the problem is.
[22] MS. GABLER: Your Honor, there are
[23] several problems. Most importantly, their
[24] exhibit actually contains more than 400 exhibits

[1] APPEARANCES CONTINUED:
[2]
[3]
[4] RICHARDS, LAYTON & FINGER
[5] BY: ROBERT W. WHETZEL, ESQ.
[6]
[7] -and-
[8] HOWREY LLP
[9] BY: GLENN W. RHODES, ESQ.
[10] BY: TERESA M. CORBIN, ESQ.
[11] BY: JULIE S. GABLER, ESQ.
[12] BY: STEVEN YOVITS, ESQ.
[13] BY: HEATHER H. FAN, ESQ.
[14] BY: SUZANNE B. DRENNON, ESQ.
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Counsel for the Defendants

[1] on it. And what they've done is earlier, as I
[2] think you aware, the parties had exchanged much
[3] larger lists and you had asked us to narrow them
[4] down to 150 at the pretrial conference.
[5] And what LPL did, in essence, is
[6] take their hundreds and hundreds of exhibits and
[7] reshuffle them so that they could call them 135
[8] exhibits when, in fact, they have more than 400
[9] items on there.
[10] So if you went document by
[11] document, their exhibit list is over 150 at
[12] plaintiff's Exhibit Number 24. That is,
[13] obviously, a major problem for us.
[14] So we've had to, you know, make
[15] objections against a much larger list. We don't
[16] believe it's proper for plaintiffs to have
[17] characterized 400-plus documents as 150
[18] exhibits.
[19] We're asking for one of two
[20] things. Either that Your Honor strike Exhibits
[21] 2, 12, 13, 18, 19, 20, 21, 22, 29, 30, 36, 46,
[22] 47 through 49, 72, 73, 75, 79, 87 through 90, 93
[23] through 96, 100, 101, 103, 104, 109, 111, 118
[24] through 121, 124, 127, 128 and 130, which is all

Page 5

(1) the exhibits that contain more than one
(2) document.
(3) Or alternatively, you cut their
(4) list at the actual first 150 documents, which
(5) would be midway through Exhibit 124. We ask
(6) that that be clarified as early as possible,
(7) because obviously your order on this will
(8) implicate how defendants do their list, which is
(9) due at 5:00 p.m. tonight.
(10) And so in addition to that
(11) problem, plaintiffs also designated a number of
(12) documents listed in Section 1 on Page 1 of your
(13) letter that were late produced. And as you're
(14) aware, Your Honor has already ruled that late
(15) produced documents can not be used at trial, I
(16) think you have been clear on that.
(17) Plaintiffs — defendants are not intending to
(18) list any documents that were subject to Your
(19) Honor's ruling, plaintiffs have ignored Your
(20) Honor's ruling and listed a number of those
(21) documents anyway. So we on that basis request
(22) the Court strike Exhibits 1 through 3, 28
(23) through 31, 42, 85 through 87, and 126.
(24) Additionally there are a number of

Page 7

(1) whole story had to be told, Your Honor, the
(2) totality of the circumstances, Your Honor ruled
(3) that that was all out, so LPL cannot offer
(4) letters and testimony that are inconsistent with
(5) your order, so in addition to Plaintiff's 45 and
(6) 46, they have also designated a bunch of
(7) testimony that they want to play in their case
(8) in chief including from Bell Chang and Pat Chang
(9) in which those deponents in Bell Chang's case
(10) testified about these letters that are their
(11) notice story that again we believe should be out
(12) based on your ruling on plaintiff's own motion.
(13) And then in Pat Chang's testimony
(14) he directly testifies about the '121 patent and
(15) I think Your Honor has been clear about that at
(16) this point.
(17) So we're very concerned that there
(18) is some sword and shield situation here.
(19) Plaintiffs sought and got a number of rulings
(20) from this Court on things that were going to be
(21) excluded because they didn't want us to do them
(22) and now they're turning around and trying to
(23) include them in their list and including them in
(24) their designations, and obviously we consider

Page 6

(1) documents that refer to patents that are not in
(2) this litigation. As you'll recall, LPL moved
(3) and we opposed a motion limiting this case to
(4) just references to the '002 patent and yet
(5) despite the fact that Your Honor granted
(6) defendant's motion — I'm sorry, granted
(7) plaintiff's motion, plaintiff has proceeded to
(8) list a number of exhibits and designate
(9) deposition testimony that's contrary to your
(10) order, in specific Exhibits 45 and 46 on their
(11) list are letters that refer to patents other
(12) than the '002.
(13) And if Your Honor will recall when
(14) we opposed their motion to exclude reference to
(15) other patents we made a proffer of what it is
(16) that we intended to offer, and we identified for
(17) Your Honor the fact that we didn't know how a
(18) willfulness case under the totality of the
(19) circumstances or defendant's exceptional case
(20) claims could go forward under this order because
(21) all of that evidence was intermixed and in order
(22) to tell what we understood to be LPL's notice
(23) story that was necessarily commingled with other
(24) patents and if that was going to happen that the

Page 8

(1) that to be a problem.
(2) THE COURT: All right.
(3) MR. BONO: Thank you, Your Honor.
(4) Your Honor, I just had the letter
(5) that was delivered to Your Honor delivered to me
(6) at 9:25 this morning, so I really haven't had a
(7) chance to read it. But let me respond to three
(8) points that Ms. Gabler mentioned.
(9) One, we diligently complied with
(10) Your Honor's order on strictly exhibits. What
(11) we did in terms, and it's mainly the technical
(12) documents, as we grouped documents together into
(13) a composite exhibit which we did not understand
(14) Your Honor to preclude, for example, if there
(15) was an STR file relating to one module, we put
(16) that in one exhibit because that's the way it's
(17) going to be used at the trial.
(18) Counsel is really arguing that
(19) every piece of paper needs to be a separate
(20) exhibit and I don't think that's what Your Honor
(21) meant. Clearly there is no attempt to
(22) circumvent Your Honor's order, but we logically
(23) put in a composite exhibit the documents that
(24) related to each other as one exhibit and we're

[1] MS. GABLER: Some of them predate
[2] the filing of this lawsuit for that matter.

[3] MR. BONO: May I explain, Your
[4] Honor?

[5] THE COURT: Yes.

[6] MR. BONO: This came up, these are
[7] of CPT financial results as I explained, they
[8] did come directly from their website and the
[9] circumstances of this was our damages expert
[10] referred to these websites with public documents
[11] in his report, and they asked us to produce the
[12] sites, website information that he had looked at
[13] and not just make general statements, so in
[14] response to their request we produced those
[15] documents, but these are all CPT produced
[16] documents.

[17] I know of no article published by
[18] third parties, these are all their own reported
[19] financial results, that's why their letter —

[20] THE COURT: If they're all in that
[21] category, I'll overrule the objection and find
[22] there is no prejudice.

[23] MS. GABLER: Your Honor, the final
[24] category on late produced documents are the

[1] MR. BONO: Yes, Your Honor.

[2] There's no modification whatsoever.

[3] MS. GABLER: Your Honor, if I G

[4] Philips wants to use some of these items as

[5] demonstratives, I don't think we have

[6] necessarily the same kind of objection to that.

[7] But the idea that they're submitting them as

[8] evidence that was never disclosed, and certainly

[9] wasn't disclosed in advance of expert reports,

[10] or expert depositions, we have a problem with

[11] having that on the exhibit list as something

[12] that then could go back to the jury room.

[13] THE COURT: Well, as I understand

[14] it, they're using those as demonstratives. So,

[15] and you actually have the product?

[16] MR. BONO: Oh, yes. We produced

[17] the actual product.

[18] THE COURT: I'll overrule the

[19] objection. You can use the picture for the

[20] jury's ease in understanding.

[21] MR. BONO: Thank you.

[22] THE COURT: All right.

[23] MS. GABLER: Okay. And then I

[24] have a couple other —

[1] photographs that they marked as Plaintiffs 28
[2] through 31, and these are photographs that
[3] apparently plaintiffs took of some of CPT's
[4] products, but those were never produced in the
[5] case either in conjunction with expert reports,
[6] prior expert depositions or in any manner. We
[7] became aware of them for the first time at 5:30
[8] on Saturday evening in the first draft of their
[9] exhibit list.

[10] MR. BONO: Your Honor, these are
[11] as you recall in this case, Your Honor ordered
[12] CPT to produce actual modules and I believe that
[13] they produced about thirty to thirty-five actual
[14] modules in discovery, and these are for purposes
[15] of presentation to the jury, you can't take
[16] apart every module given the time constraints.
[17] And so we took photos of the actual modules that
[18] CPT produced in discovery, and these are very
[19] narrowly tailored to the specific products that
[20] are going to be talked about by our expert.

[21] That's what that is.

[22] THE COURT: And the photo, you
[23] represented that the photo has no modification
[24] to the actual — to the product that's produced?

[1] THE COURT: What else do you have,
[2] because we've got to get the jury up here.

[3] MS. GABLER: In relation to the

[4] number of exhibits, Mr. Bono, came up here and

[5] said —

[6] THE COURT: Well, here's what I'm

[7] going to do about the number of exhibits.

[8] Because how do I know?

[9] What I'll do is if the exhibit

[10] list is crafted as Mr. Bono says, and for

[11] instance, Exhibit 20 is a book or a technical

[12] document, not a compilation of technical

[13] documents, your objection is going to be

[14] overruled.

[15] If I find out during the course of

[16] the trial that there has been stuffing of

[17] individual exhibits, in other words, the

[18] marshaling of numerous exhibits into one exhibit

[19] number, then I'll either deal with it at trial,

[20] or it could be the cause of a mistrial after the

[21] verdict on a post-trial application.

[22] But what I'm going to do, I'm

[23] going to accept his representation, caution him

[24] that it's not to be a stuffing exercise, that

Page 29

[1] they should truly be an exhibit numbered as one
[2] exhibit. As you would number a book, you would
[3] number all 300 pages of the book.
[4] If it turns out to be different
[5] than that, then there will be a sanction.
[6] MS. GABLER: Your Honor, I can
[7] represent to you that the numbers I read into
[8] the record that are just above point four in the
[9] letter on Page 4, each and every one of those is
[10] not a situation where they have numbered a
[11] document that goes together or like your example
[12] like a book.
[13] That is not the case —
[14] THE COURT: Well, we'll see.
[15] MS. GABLER: — in any of those.
[16] But we are concerned, Your Honor, that if they
[17] then can pick and choose among what is now 400,
[18] more than 400 exhibits, that that is presenting
[19] us a problem, also.
[20] THE COURT: Well, if you're
[1] correct and it's truly 400 individual exhibits
[2] that have been randomly compiled to make it fit
[3] within the 150 exhibits list, —
[4] MS. GABLER: Right.

Page 30

[1] THE COURT: — and if you get an
[2] adverse verdict, you're probably going to get a
[3] new trial. If they're foolish enough to do
[4] that.
[5] But I'm not going to play with
[6] that this morning of commencement of the trial.
[7] And I put them on notice.
[8] If that's what's going on, if
[9] they're successful and prevail in trial, there
[10] will be a new trial. It's that simple.
[11] Mr. Bono, you'll be careful with
[12] that list and make sure it's not as your friends
[13] on the other side describe it.
[14] MR. BONO: Thank you, Your Honor.
[15] The list is as I've described it to the Court.
[16] We have properly compiled the composite
[17] exhibits.
[18] THE COURT: The only question is
[19] when do you start using it?
[20] MS. GABLER: It's the composite
[21] exhibits. So, for example, there are some where
[22] there are 69 separate exhibits for 69 separate
[23] products in one exhibit. And it's our position
[24] that those are 69 exhibits, not one exhibit.

Page 31

[1] THE COURT: I understand.
[2] MS. GABLER: Right.
[3] THE COURT: All right. Anything
[4] else?
[5] MS. GABLER: Yes. We have a
[6] couple other points of clarification.
[7] First, LPL has provided the
[8] witness list as they were required to do on the
[9] 15th, and ours will be coming in to Your Honor
[10] on time by 5:00 p.m. tonight. We wanted to
[11] clarify.
[12] Your Honor, at the pretrial, had
[13] talked about the fact that you couldn't call
[14] witnesses out of order, and we just want to
[15] clarify that if someone is listed on the list,
[16] they do actually have to be called; correct?
[17] THE COURT: If — I'm not
[18] understanding your question.
[19] MS. GABLER: Okay. They have
[20] listed out a number of witnesses on their list.
[21] So when we are putting in our list today, if
[22] they have somebody on their list that we want to
[23] conduct cross-examination on, for example that
[24] they're calling live, in reliance on the fact

Page 32

[1] that they have listed them on their list, we are
[2] not going to include —
[3] THE COURT: I've already discussed
[4] this. Don't you remember my whole example that
[5] you've got to go one, two, three, four, five?
[6] You can't skip.
[7] And if you run out of time, you
[8] run out of time at the end of the list. So
[9] that's how you prioritize your witnesses and all
[10] that.
[11] Now, you may not see the last five
[12] because they may run out of time. I don't know,
[13] but I thought I clarified that already.
[14] MS. GABLER: Okay. That was — I
[15] appreciate the clarification. And in terms of
[16] witnesses that are appearing by video, if their
[17] depositions are designated, you have to play the
[18] entire designation; right, whatever has been
[19] disclosed?
[20] THE COURT: Tell me why you
[21] wouldn't.
[22] MS. GABLER: We would not plan to.
[23] This, again, just goes to how we prepare our
[24] witness list.

[1] In some instances, they have
[2] designated many hours of video testimony. So we
[3] just want to make sure that if they're playing
[4] that, if we counter — if the deposition
[5] designation is witness number four, and it has
[6] 27 hours of designation, I guess we're going to
[7] hear 27 hours of witness four. We won't get to
[8] any other witnesses.
[9] MS. GABLER: Okay. Thank you.
[10] The final points this morning,
[11] we're not sure if LPL has a jury consultant with
[12] them today, but we do have one. And we didn't
[13] know whether or not Your Honor had any objection
[14] to the jury consultant sitting at counsel's
[15] table during jury selection.
[16] THE COURT: No. You can do that.
[17] MS. GABLER: And we would like
[18] Your Honor to rule that no mention of the
[19] presence of jury consultants, either ours or
[20] theirs, if they have one, can be made in front
[21] of the jury.
[22] THE COURT: Why would anybody do
[23] that?
[24] MS. GABLER: Just making sure.

[1] THE COURT: You have a continuing
[2] stuffing objection. You don't have to do
[3] anything about it.
[4] It's going to come in at their
[5] peril if they are, in fact, stuffing.
[6] MS. GABLER: Okay.
[7] THE COURT: I think that's on the
[8] record. You have that objection.
[9] MS. GABLER: Great. I think
[10] that's my new favorite objection. Thank you.
[11] THE COURT: You're welcome. All
[12] right. Yes.
[13] MR. BONO: I just have one issue,
[14] Your Honor.
[15] THE COURT: Sure.
[16] MR. BONO: We informed the Court
[17] on Friday in light of the trial management, that
[18] order, that we had withdrawn certain claims in
[19] the case and narrowed the case to Claims 1 and 8
[20] of the '002 patent, and we have served on the
[21] other side a covenant not to sue as to the other
[22] claims. And I noticed in some of their opening
[23] statement demonstratives like there was mention
[24] of other claims other than Claim 1 and 8.

[1] THE COURT: Okay. The jury can
[2] come to side-bar when we do the individual voir
[3] dire, so they can hear that. You have a jury
[4] consultant.
[5] MR. BONO: No, Your Honor, not
[6] here today.
[7] THE COURT: You're not going to
[8] talk about theirs, are you?
[9] MR. BONO: No, Your Honor. I
[10] didn't know about it.
[11] THE COURT: I'm not going to talk
[12] about it, either.
[13] MS. GABLER: Okay. In the event
[14] that LPL tries to admit during the trial through
[15] a witness one of these stuffed exhibits, what
[16] objection would you like us to be making at the
[17] time that's happening to preserve the mistrial
[18] issue.
[19] THE COURT: Well, on the issue of
[20] stuffing, you have a continuing objection. So
[21] there's no need to have to stand up and
[22] implicate yourself each time in front of the
[23] jury.
[24] MS. GABLER: Okay.

[1] And it's our position that there's
[2] no judicial claim before this Court.
[3] THE COURT: If you're only trying
[4] 1 and 8, that's all they're going to talk about
[5] is 1 and 8.
[6] MS. CORBIN: Your Honor, can I
[7] address this?
[8] THE COURT: Are you going to use
[9] something other than Claim 1 and 8?
[10] MS. CORBIN: Yes, Your Honor,
[11] because obviousness is an important issue in
[12] this case. And there are claims in this patent
[13] that are directed to inner claims alone, inner
[14] rings alone, outer rings alone. And then the
[15] combination of those rings.
[16] And, for example, one of those
[17] claims, Claim 10, which was an independent claim
[18] that was an inner ring claim only has been
[19] admitted by their expert to be completely
[20] anticipated.
[21] THE COURT: Well, I don't think
[22] Mr. Bono is arguing that in the presentation of
[23] invalidity claims, that you can't attack the
[24] claims of the patent. That's not what you are

[24] having a meeting with CPT in June of 2002;

Page 649

[1] correct?

[2] A: That's correct.

[3] Q: Incidentally, you speak English, [4] don't you?

[5] A: Yes, a little bit.

[6] Q: And you read English; right?

[7] A: Yes, to a little extent.

[8] Q: In fact, when you prepared with [9] Mr. Bono for your deposition, you spoke to him [10] in English; right?

[11] A: On certain occasions I did, and [12] other — and on other occasions I used the [13] interpreter.

[14] Q: Now, during that meeting in June, [15] 2002 with CPT, you were speaking English with [16] them; is that correct?

[17] A: That is correct.

[18] Q: Now, at that meeting in June of [19] 2002 with CPT, that was a general introduction, [20] not a deep technical discussion; right?

[21] A: Yes. However, we had already [22] prepared claim charts and since they were aware [23] of the technical — and since they were aware of [24] the problems since February, we have provide

Page 650

[1] them with enough technical information by that [2] time.

[3] Q: But you'll agree that CPT was not [4] prepared to have a technical meeting and [5] technical discussions with you; right?

[6] A: I thought that since they have had [7] six months period — excuse me, four months [8] period, I thought that they would have [9] understood our technology sufficiently.

[10] Q: Well, let me direct you to your [11] deposition testimony from July 3rd, 2006, again, [12] page 122, lines 1 to 6.

[13] "ANSWER: And another thing was [14] that this was the first meeting, so I don't [15] believe that CPT was prepared to have a [16] technical meeting with technical discussions. [17] So rather than having any deep technical [18] discussions, I believe that we gave a general [19] introduction."

[20] A: That's correct.

[21] Q: Could we put PTX 46 up on the [22] screen.

[23] Now, Mr. Lee, we talked about this [24] letter this morning; right?

Page 651

[1] A: Yes, that's true.

[2] Q: Now, if you look at PTX 46, if [3] you'll just read through that for a mom-

ent, will [4] you please tell me where it says infringe or [5] infringement in that letter anywhere?

[6] A: Yes. In this letter we are simply [7] saying that we are willing to offer licenses for [8] all our technology.

[9] Q: In fact, in the second paragraph [10] it says as examples you may wish to review U.S. [11] patent numbers and it list eight patents; right?

[12] A: Yes, that's correct.

[13] Q: And if you look at the next [14] paragraph, it says, "Should your company wish to [15] discuss the above identified patents." Correct?

[16] A: That's correct.

[17] Q: And it says, "We will be happy to [18] visit your company on any one day between March [19] 14 and March 15." Right?

[20] A: That's correct.

[21] Q: And those were dates of your [22] choosing; correct?

[23] A: That's correct.

[24] Q: You didn't ask CPT for any

Page 652

[1] convenient dates for them; right?

[2] A: Yes, we didn't ask that, however, [3] we didn't hear the answer for this letter, [4] either.

[5] Q: You know what Chinese New Years [6] is, don't you?

[7] A: Yes, of course I do.

[8] Q: Now, can you put up PTX 142 for [9] me, please. And just put both letters on the [10] screen. And if you can enlarge PTX 142 a little [11] bit so we can read it.

[12] And I would like to refer your [13] attention to PTX 142 which is on the right-hand [14] side of the screen. And the first line it says, [15] "On February 8, we wrote to you and asked for a [16] meeting to discuss the unauthorized use of [17] technology owned by LG Philips LCD Company by [18] Chunghwa Picture Tubes."

[19] A: That's correct.

[20] Q: And that first sentence of that [21] letter is incorrect; right?

[22] A: Well, there may be a little bit of [23] difference of opinion regarding the expression [24] that is used, but I think largely the substance

Page 653

[1] is correct.

[2] Q: Well, let's look at the second [3] sentence of that paragraph. "In that letter, we [4] asked for a meeting to discuss the issue of [5] patent infringement with CPT."

[6] A: That's correct.

[7] Q: And that sentence isn't correct, [8] either, is it?

[9] A: Well, you may not say it is 100 [10] percent correct, but you say it's more or less [11] the same vein.

[12] MR. RHODES: And can you put — [13] Defendants' Exhibit 58, please?

[14] INTERPRETER PARK: If I may, if I [15] could make a correction to the last statement by [16] the witness.

[17] I wouldn't think that it is 100 [18] percent identical in meaning, but more or less, [19] I would think it is the same meaning.

[20] MR. RHODES: Put those back up.

[21] INTERPRETER KIM: I respectfully [22] disagree, but the Korean rendition is on the [23] record.

[24] BY MR. RHODES:

Page 654

[1] Q: The February 27th letter says, in [2] that letter, February 8th 2002, we asked for a [3] meeting to discuss this issue of patent [4] infringement with CPT.

[5] Which part of the February 8th [6] letter is identical to that sentence?

[7] A: Well, it may not be identical. It [8] is some softened out. And in large sense, I [9] think that's, more or less, the same substance [10] if you read, as example, you may wish to review.

[11] Q: Okay. So my understanding is that [12] may wish to review is identical with the issue [13] of patent infringement.

[14] That's your answer; is that [15] correct?

[16] A: Not true. It's not exactly [17] identical. However, in February 8th letter, we [18] asked him to reply by February 26th.

[19] If they had — if they had replied [20] by that time for that letter, then we would have [21] used different expression. Since they had not, [22] we sort of expended the expression to a stronger [23] connotation, because there was no reply.

[24] Although that was — the substance

Page 655

[1] was more or less the same, we made it stronger. [2] Since we have made it stronger.

[3] Q: Okay. And you've already said [4] that you know what Chinese New Year's is; right?

[5] A: That's correct.

[6] Q: Now, looking at both of those [7] letters, PTX 46 and PTX 142, neither one of [8] those letters identifies a single CPT product, [9] does it?

[10] A: True. However, on the February [11] 27th letter, we do mention unauthorized use of [12] technology. This refers to the general product [13] by CPT.

[14] Q: All right. But you will agree [15] that there's no specific CPT products identified [16] in either one of those letters; right?

[17] A: That's correct.

[18] Q: And there are no specific claims [19] of any of those patents set out in those [20] letters; right?

[21] A: That's correct.

[22] MR. RHODES: Go to Exhibit 58. [23] PTX 58.

[24] BY MR. RHODES:

Page 656

[1] Q: Now, this is a copy of the patent [2] license agreement draft proposal that you gave [3] to CPT at the June meeting; correct?

[4] A: That's correct.

[5] Q: And in that license agreement, you [6] were proposing a royalty rate of 2.5 percent; [7] right?

[8] A: That's correct.

[9] Q: And that was supposed to be a [10] licensing rate for the entire LPL portfolio [11] relating to LCDs; right?

[12] A: That's correct.

[13] Q: Now, when we were looking at the [14] February 8th letter earlier, PTX 46, did I [15] identify the patents that LPL wanted to license [16] to CPT?

[17] A: Which contract and which letter?

[18] Q: Well, let's go back. It's PTX 46. [19] Incidentally there was 447 or so [20] patents in LPL's portfolio at that time; isn't [21] that right?

[22] A: Yes, although I don't quite [23] remember the precise number. It sounds right.

[24] Q: I don't remember the precise

Page 657

[1] number, but it sounds right to me, too.

[2] Now, did you identify all the [3] patents in your portfolio in the February 8th [4] letter to CPT?

[5] A: Does the counsel mean this [6] particular letter?

[7] Q: Yes, this letter. Did you [8] identify it?

[9] A: No, just — we identified just [10] few.

[11] Q: All right. Let's go to PTX 142. [12] Now, did you provide CPT with the [13] list of the patent portfolio that you wanted [14] them to license in this — this letter?

[15] A: No, we did not.

[16] Q: And let's go to PTX 145. [17] And that is a March 26th, 2002 [18] letter to CPT. Now, again you didn't supply the [19] list of all the patents you wanted CPT to [20] license in this letter, either, did you?

[21] A: That's correct.

[22] Q: And let's go to PTX 146.

[23] A: However, they never required or [24] asked us for such information.

Page 658

[1] Q: And that's your testimony?

[2] A: That's my supplemental [3] explanation.

[4] Q: Okay. Let's go to PTX 146. [5] Now, you didn't supply the list of [6] patents in that letter, either, did you?

[7] A: That's correct.

[8] Q: And if we can go to DTX 120. Now, [9] we're up to May 17th, 2002.

[10] Did you supply the list of all the [11] 400-plus patents in this letter?

[12] A: We did not.

[13] Q: And if we can go to DTX 121. [14] Now, we're up to May 31st, 2002. [15] Did you supply the list of 400-plus patents to [16] CPT in this letter?

[17] A: We did not.

[18] Q: All right. Let's go to DTX 123. [19] Now we're up to July.

[20] Now, in this letter you state [21] that, We provided CPT our standard licenses [22] agreement during our June 11 meeting.

[23] Do you see that?

[24] A: Yes, I did.

Page 659

[1] Q: And you didn't supply the list of [2] 400-plus patents to CPT in this letter, either; [3] right?

[4] A: That's correct.

[5] Q: Then let's go to DTX 125. [6] Now, we're up to July 30th, 2002. [7] And the second paragraph, the last sentence, it [8] says a list of patents available for licensing [9] is attached to this letter.

[10] A: That's correct.

[11] Q: And if we go to Page 2 of that [12] exhibit. Is that a list of the LPL patents that [13] you wanted CPT to pay a 2.5-percent royalty for?

[14] A: That's correct.

[15] Q: And if we go to Page 2 of that [16] exhibit,

[17] And this is the last page of the [18] three-page document of DTX 124. And that's the [19] remainder of the patents that you wanted CPT to [20] license at that 2.5-percent royalty; correct?

[21] A: That's correct.

[22] Q: Okay. So starting in February of [23] 2002, when you first sent the letter to CPT, in [24] February, you didn't give them a list with all

Page 660

[1] the patents; correct?

[2] A: Correct.

[3] Q: And in March you didn't give them [4] a list, either; right?

[5] A: Correct.

[6] Q: Didn't give them one in April, [7] either; correct?

[8] A: Correct.

[9] Q: You didn't give them one in May?

[10] A: Correct.

[11] Q: And you gave them a proposed [12] license agreement in June; right?

[13] A: Correct.

[14] Q: And then on July 30th, you gave [15] them a list?

[16] A: Correct.

[17] MR. RHODES: Can we have DTX 124, [18] please?

[19] BY MR. RHODES:

[20] Q: Now, earlier you said they never [21] asked for one; correct?

[22] A: Yes. That's correct. [23] However, I meant in May.

[24] Q: Oh, I see. Now, if we look at

Page 661

[1] Paragraph 3 with respect to the license [2] agreement, We are concerned about the licensed [3] patents most. Thus, we need more information, [4] such as the Patent List, to estimate the value [5] of them.

[6] A: Yes. That's correct.

[7] Q: And they said, We need more [8] information and time for this matter. We would [9] like to extend the date you had stated on July [10] 5, 2002.

[11] Do you see that?

[12] A: That's correct.

[13] Q: And then on July 30th, you finally [14] gave them a list of 447 patents to analyze; [15] right?

[16] A: That's correct.

[17] Q: Now, if we could put DTX 48 up. [18] Actually don't put that up yet.

[19] Now, Mr. Lee, you gave them a list [20] at the end of July for a proposed licensing [21] agreement in 2002; correct?

[22] A: Correct.

[23] Q: And they asked for more time; [24] right?

Page 662

[1] A: Correct.

[2] Q: And that list was 447 odd patents; [3] right?

[4] A: Correct.

[5] Q: And less than a month later, you [6] sued CPT; right?

[7] A: Correct.

[8] Q: And you sued them in California; [9] right?

confirmed. However, because [22] we always have used two guard rings, the data [23] for one outer guard ring only was not well kept.

[24] Q: So if that existed, that document

Page 669

[1] existed, you would have given that to your [2] counsel; right?

[3] A: There was no documented result. [4] It was a test that was performed in very early [5] day, like trying, try it at the factory level — [6] pilot factory level, so it was not something [7] that was conducted at a level of fab, so did not [8] keep a detailed result.

[9] Q: So you distinguish between [10] something that's done in the R & D versus [11] something that's done in a fab, don't you?

[12] A: Yes. However, I was speaking more [13] in terms of yield management. However, as far [14] as the pilot product, whether it was done on [15] R & D pilot level or whether it was made at [16] factory in mass production level, I don't think [17] there was a great difference as the design would [18] have been more or less the same.

[19] Q: So it's your testimony that yield [20] at the R & D level would be the same as yield at [21] the fab level; is that correct?

[22] A: Yes, although I cannot confirm [23] that using data since there was no data, but as [24] far as the functionality of the products are

Page 670

[1] concerned, they are the same, so I do believe [2] they would be more or less the same.

[3] Q: So there is no specific recorded [4] data; correct?

[5] INTERPRETER PARK: For the first [6] portion of the witness's answer, prior answer, [7] he said, "I cannot speak in terms of data, but [8] with respect to the functionality of the [9] products, I think they are the same?"

[10] INTERPRETER KIM: No objection.

[11] BY MR. RHODES:

[12] Q: So again, there is no specific [13] recorded data; correct?

[14] A: That's correct.

[15] Q: In fact, you've reached the [16] conclusion that the increase in yield rate is at [17] a minimum ten percent; right?

[18] A: That's correct.

[19] Q: And that's based on an assumption; [20] right?

[21] A: Well, no. What I'm talking about [22] is in terms of products that were produced in [23] pilot line, not in mass production line like [24] several thousand or several tens of thousand,

[1] but perhaps ten or more or less, and within that [2] scale, I am speaking in terms of result that we [3] have obtained within that scale.

[4] INTERPRETER PARK: If I may, I [5] would like to reinterpret the witness's prior [6] answer.

[7] "No, I'm talking about the [8] products that we made using the pilot line. Of [9] course we're not talking about mass production [10] lines where we are talking about thousands of [11] products, maybe tens of thousands of products, [12] we're not talking about that, but I'm talking [13] about the test results of the tests that we [14] conducted using some products that we used, [15] pilot line, about ten of them or more or less [16] about ten of them."

[17] BY MR. RHODES:

[18] Q: I'm sorry, I just want to make [19] sure I understand this correctly. You're [20] talking about a pilot line, not mass production, [21] that's what you said; correct?

[22] A: That's correct.

[23] Q: And you have no specific recorded [24] data that supports that; correct?

Page 672

[1] A: That's correct.

[2] Q: Now, you testified this morning [3] that you were involved in developing LCD [4] products at the beginning of your career at LG [5] Electronics; correct?

[6] A: That's correct.

[7] Q: Now, this also involved especially [8] going to countries such as Japan and the United [9] States where companies have developed LCDs to [10] learn the technology and to prepare for the [11] business of LCD development; correct?

[12] A: That's correct.

[13] Q: Now, LPL I think you said in your [14] deposition expends enormous resources in [15] reviewing patents; is that correct?

[16] A: That's correct.

[17] MR. RHODES: Your Honor, if I can [18] just have two minutes.

[19] THE COURT: Sure.

[20] MR. RHODES: Thank you. [21] Your Honor, at this time I would [22] like to move into evidence Defendants' Exhibits [23] 120, 121, 123, 125, 124, and 48.

[24] THE COURT: All right. They're

Page 673

[1] admitted subject to any objection they might [2] have.

[3] MR. RHODES: I have no further [4] questions.

[5] THE COURT: All right. Thank you.

[6] MR. BONO: I have no questions, [7] Your Honor.

[8] THE COURT: All right. The [9] witness may step down.

[10] MR. BONO: Your Honor, we're going [11] to begin showing some video depositions.

[12] THE COURT: We'll take a break. [13] That way, you can get set up.

[14] We'll take a 15 minute or [15] 20-minute break, so you can get set up for the [16] videotape deposition.

[17] Jury leaving the courtroom at [18] 2:53 p.m.)

[19] THE COURT: All right. We'll be [20] in recess for 15 minutes.

[21] (A brief recess was taken.)

[22] THE CLERK: All rise.

[23] THE COURT: Jury's on its way in.

[24] Jury entering the courtroom at

Page 674

[1] 3:18 p.m.)

[2] THE COURT: All right. Be seated, [3] please.

[4] Mr. Bono.

[5] MR. BONO: Thank you, Your Honor. [6] Mr. Christenson will present the next few [7] witnesses.

[8] THE COURT: All right.

[9] MR. CHRISTENSON: Your Honor, LG [10] Philips would like to present an excerpt from a [11] videotape deposition of Chunghwa Picture Tubes [12] for its next witness.

[13] Mr. Milton Kuan.

[14] THE COURT: All right.

[15] MR. CHRISTENSON: This is an [16] excerpt of Mr. Kuan's deposition. Mr. Kuan was [17] designated by Chunghwa to testify on behalf of [18] Chunghwa.

[19] (Beginning of videotape excerpt:)

[20] Q: Mr. Kuan, good morning.

[21] A: Good morning.

[22] Q: Please state your full name.

[23] A: Kuan Chien Ming.

[24] Q: So you use the English name Milton

Page 675

[1] Kuan; is that correct?

[2] A: Yes.

[3] Q: Where do you work?

[4] A: China Picture Tube.

[5] Q: And you understand that you are [6] testifying today as a representative of CPT?

[7] A: Yes.

[8] Q: So when you answer questions [9] today, you will be telling me not just what

TRANSCRIPT PAGES 994 - 1152

REDACTED

TRANSCRIPT PAGES 1180 - 1192

REDACTED

has some [14] level of resistance, everything has some level [15] of conductivity, except for superconductors [16] which have no resistance.

[17] Q: And does CPT utilize [18] superconductors in the diodes?

[19] A: No. No one was figured out how to [20] get superconductors into the displays, [21] unfortunately; maybe some day.

[22] Q: So just to illustrate that point [23] that the resistance is found in every substance, [24] can we just — can you just describe for us say

Page 1577

[1] in the gate line, what is the resistance of the [2] gate lines that we have been talking about?

[3] A: The resistance of a typical gate [4] line is in the kilohm range. Obviously it [5] depends on the size of the display and the [6] design and width of the lines, et cetera, the [7] thickness, but you know, my experience typically [8] they operate around a 10,000 ohm level for [9] reasons that we don't need to get into.

[10] Q: So the gate lines themselves would [11] have a 10,000 ohm level. How does that relate [12] to the .1 ohm resistance that you described in [13] the ITO jumpers?

[14] A: Well, that's obviously much [15] higher, 10,000 compared to a 10th of an ohm is a [16] pretty slight resistance, a thousand compared to [17] a tenth of an ohm.

[18] Q: The way in which the ITO jumpers [19] are used in CPT products where you have 10,000, [20] for example, of those in one outer guard ring, [21] what is the effect of that on current flow in [22] the event of electrostatic discharge?

[23] A: Well, it would have essentially no [24] effect. It would be a negligible affect in

Page 1578

[1] comparison to these other resistors that are [2] present.

[3] Q: Could we see slide 111, please. [4] When people use ITO in the LCD [5] industry in the manner in which CPT has used [6] that, how does that comport with resistance as [7] defined by the Court?

[8] A: Well, I don't know of any case in [9] the LCD industry where ITO is used to minimize [10] the current from electrostatic discharge. ITO [11] is generally used to provide as much conductance [12] as possible.

[13] Q: I would like to see slide 120, [14] please.

[15] So based on the discussion that [16] we've just had, is it your opinion — strike

[17] that.

[18] Do any of CPT's products contain [19] the resistance of step four of Claim 1?

[20] A: No, they don't.

[21] Q: And could you summarize for us the [22] reasons why you say that?

[23] A: Well, first of all, in terms of [24] this part four here, they don't have the three

Page 1579

[1] distinct structures. The diodes don't [2] constitute a resistance under the Court's [3] definition because they don't have a specified [4] resistance. And both the diode and the ITO [5] actually serve to maximize current from ESD and [6] not minimize it.

[7] Q: And then if we could quickly look [8] at step five, which is removing said guard ring [9] and row and column interconnections prior to [10] completion of the display. In your view, do any [11] of CPT's manufacturing methodologies that [12] produce the accused products here do that step?

[13] A: They do not.

[14] Q: Why not?

[15] A: Because they don't have the [16] interconnections.

[17] Q: So in summary, then, in looking at [18] the totality of Claim 1, slide 121, can you [19] summarize for us why you opine that CPT's [20] products do not infringe Claim 1?

[21] A: Because they don't provide the [22] interconnecting as required by the definition. [23] And in this portion they don't have the [24] interconnection, therefore, they can't do

Page 1580

[1] everything, but they also don't have a [2] resistance that conforms to the Court's [3] definition. And again, this is not valid [4] because there are no interconnections. So as a [5] result, none of these is met.

[6] Q: Okay. So I want to talk about [7] Claim 8 now. Is Claim 8 a dependent or [8] independent claim?

[9] A: Claim 8 is a dependent claim.

[10] Q: And what does it mean to be a [11] dependent claim?

[12] A: It means that it contains the [13] elements of the claim from which it depends.

[14] Q: Could I please have slide 121 [15] back, please.

[16] And what claim does Claim 8 depend [17] from?

[18] A: Claim 8 depends from Claim 1.

[19] Q: And so does it include all the [20] limitations that we have just gone through for [21] Claim 1?

[22] A: That's the meaning of it, it [23] includes all these limitations and then adds [24] additional ones.

Page 1581

[1] Q: So what is your opinion with [2] respect to whether any of CPT's products that [3] are accused here infringe Claim 8?

[4] A: Well, if they don't infringe Claim [5] 1, they cannot infringe Claim 8. So that's very [6] simple.

[7] Q: What is your opinion about —

[8] A: So, therefore, they do not [9] infringe Claim 8.

[10] Q: So if I have understood, we have [11] gone through all the reasons why CPT does not [12] infringe Claim 1 or Claim 8, and I want to [13] switch gears here for a minute and ask you, [14] Dr Howard, were you asked to consider whether [15] noninfringing alternatives exist to the '002 [16] patent?

[17] A: Yes, I was.

[18] Q: And can you tell us what are [19] noninfringing alternatives, what that term [20] means?

[21] A: Well, a noninfringing alternative [22] is a way of making the product that would not [23] infringe the '002 patent.

[24] Q: And are there any non-infringing

Page 1582

[1] alternatives that you are aware of?

[2] A: Well, I mean, one of them is the [3] CPT structure, which I just said doesn't [4] infringe.

[5] Q: And in addition to that, are there [6] any other non-infringing methods of which you [7] are aware?

[8] A: Yes. I'm aware of other [9] alternatives.

[10] Q: And could you give us an example [11] of one of those?

[12] A: Well, one example is use of what's [13] called chip on glass technology.

[14] Q: And can you explain what that is?

[15] A: Yes. All these displays have to [16] be connected to the outside world eventually. [17] And typically that's done on the edge of the [18] panel with a flexible connector.

[19] And the flexible connector carries [20] on it a silicon chip that provides the voltages [21] to each of the lines to which it's connected in [22] accordance with the — what the computer is [23] sending out as a picture.

[24] And in chip on glass, those chips

Page 1583

[1] that normally would be on the flex are placed [2] directly onto the glass. And so you have a [3] smaller number of connects that have to be made [4] to the glass

to send in the digital information [5] to the chips.

[6] Q: And why do you say that chip on [7] glass is a non-infringing alternative to the [8] methods of Claims 1 and 8 of the '002 patent?

[9] A: Because it doesn't fit itself well [10] to outer guard ring. And in looking at CPT's [11] products, for instance, that use, chip on glass, [12] they found that they didn't need to have an [13] outer guard ring.

[14] Q: So do the products that CPT makes [15] with the chip on glass methodology include an [16] outer guard ring?

[17] A: No, they do not.

[18] Q: And how many of CPT's products — [19] well, strike that.

[20] Which CPT products currently use [21] the chip on glass technology?

[22] A: Currently the smaller products use [23] it up to nine inch.

[24] Q: And from a technical point of

Page 1584

[1] view, are you aware of any reason why CPT could [2] not use the chip on glass technology to produce [3] the larger displays it manufactures?

[4] A: I'm not aware of any limitation in [5] that nature.

[6] Q: Okay. I want to move now and talk [7] about your opinion with respect to the validity [8] or invalidity of the '002 patent.

[9] THE COURT: Maybe we should break [10] for lunch. That way you don't get caught in the [11] middle of that. Would that be okay?

[12] MS. CORBIN: That would be great. [13] Thank you.

[14] THE COURT: We're going to recess [15] for lunch. We're going to take a little longer.

[16] I'll ask you to come back at 1:30.

[17] THE CLERK: All rise.

[18] (Jury leaving the courtroom at [19] 12:28 p.m.)

[20] THE COURT: All right. Be seated. [21] Can your technician put up a claim [22] construction order?

[23] MS. CORBIN: The actual order? I [24] think so. Do we have the claim construction

Page 1585

[1] order?

[2] I can do it on the elmo.

[3] THE COURT: Oh, that's fine.

[4] MS. CORBIN: Yes.

[5] THE COURT: That is — what's [6] that?

[7] MS. CORBIN: Sorry. It's just [8] what I

had set down here, so I could get it. [9] And I could put it on the screen.

[10] THE COURT: If you could do that. [11] Doctor, could you stay with us for five minutes?

[12] THE WITNESS: Sure.

[13] THE COURT: We're in recess for [14] lunch, so anybody who wants to leave is free to [15] leave and otherwise sit down, please.

[16] MS. CORBIN: Thanks.

[17] THE COURT: Doctor, have you seen [18] the claim construction order?

[19] THE WITNESS: Yes.

[20] THE COURT: Is it on your screen [21] there, too?

[22] THE WITNESS: Yes, it is.

[23] THE COURT: You can look at either [24] one. I just wanted to be sure. I didn't know.

Page 1586

[1] THE WITNESS: It is. It is.

[2] THE COURT: I don't know if it was [3] shown here. This is my claim interpretation, [4] how I interpreted the terms, claim language of [5] the patent.

[6] And you've had a chance to look at [7] this and digest it?

[8] THE WITNESS: Yes.

[9] THE COURT: Where did I go wrong? [10] Can you go down these terms that I defined and [11] tell me where I made an error, in your view? [12] And don't be reluctant.

[13] THE WITNESS: I am reluctant to try.

[14] THE COURT: Unless, you know, I [15] was right, which I can't imagine. So I have a [16] thick skin.

[17] I'd like to hear your views and [18] where it's wrong or correct.

[19] THE WITNESS: Well, can we scan down?

[20] MS. CORBIN: Scan down? These are [21] the ones on this page. You want to go to?

[22] I don't want to direct him. I [23] mean, I know you're not doing that, but —

[24] MS. CORBIN: He asked to see the

Page 1587

[1] other page.

[2] THE COURT: Is that what he said?

[3] MS. CORBIN: Yeah. I'm sorry.

[4] THE COURT: It's okay. I thought [5] maybe you thought I said that.

[6] MS. CORBIN: No.

[7] THE WITNESS: One of the [8] difficulties we run into here is that a circuit [9] component that has a specified resistance is a [10] lot like the definition of a resistor. A [11] resistor is a component

that has a specified [12] resistance.

[13] And that's —

[14] THE COURT: That's what I missed, [15] in your view?

[16] THE WITNESS: That is a — that's, I [17] think, the heart of some of our problems here, [18] because you appeared to exclude a resistor, but [19] the definition of resistor in some books is a [20] component with a specified resistance.

[21] THE COURT: Assuming I had been on [22] my game and caught that, what would I have [23] changed, then in my definitions?

[24] THE WITNESS: I think — you would

Page 1588

[1] have changed that to a resistor, because that's [2] the only suggestion we have in the patent.

[3] THE COURT: But how would I say [4] it? If you'd be good enough to just tell me in [5] a physicist language as opposed to a history and [6] government major's language, how you would say [7] that.

[8] THE WITNESS: Well, this is okay to [9] say it. The problem is, I believe, in the [10] opinion, you excluded the resistor.

[11] And that's what I felt was, [12] frankly, inconsistent, Your Honor.

[13] THE COURT: Okay. So it's the [14] inconsistency?

[15] THE WITNESS: Hmm?

[16] THE COURT: It's something that [17] needs to be noted and added.

[18] THE WITNESS: Yeah. I think if the [19] opinion had not said that it excludes a [20] resistor, it wouldn't have caused so much [21] difficulty.

[22] THE COURT: Okay. Anything else?

[23] THE WITNESS: No, I think — I think [24] that covers it. You're putting me in a very

Page 1589

[1] awkward position.

[2] THE COURT: No. No.

[3] THE WITNESS: I assume I'm still [4] under oath.

[5] THE COURT: Well, I'm not, so... [6] I just have some responsibilities.

[7] No, it's helpful, because I've [8] been listening to your testimony very carefully. [9] And I wanted to understand the — I thought [10] there was one simple crux of the problem, and [11] that's what you've hit on.

[12] And I understood that through your [13] testimony, I think. And the — I wanted to be [14] sure that I was understanding you correctly.

[15] THE WITNESS: From my background, the [16] only way to interpret what you said is it comes [17] down to

cost savings [22] are from the '002 patent.

[23] A: At least as of yet, he hasn't.

[24] Q: And those were the only two people

Page 1836

[1] Mr. Cobb indicated he said he had relied on in [2] putting together his damage model, and his [3] report, and for his deposition; corrects?

[4] A: At that stage, that was the only [5] basis for his estimate of the cost savings.

[6] Q: All right. [7] Right. That's what you heard him [8] testify to on Friday; right?

[9] A: Yes, that was one of the things he [10] testified to.

[11] Q: Now, in your opinion, has Mr. Cobb [12] relied on the type of information that a damage [13] expert customarily relies upon to determine the [14] amount of cost savings attributable to, in this [15] instance the '002 patent?

[16] A: No.

[17] Q: Why not?

[18] A: Well, as a damage expert, I often [19] rely on information that isn't evidence, that is [20] not actually produced in Court to use as an [21] assumption or a fact in calculating my damages.

[22] But the normal types of [23] information that fit that category for someone [24] like me, who's a CPA, are written business

Page 1837

[1] records of the companies involved that weren't [2] prepared in anticipation of litigation, that are [3] just normal business records of the companies.

[4] Those are the types of things that [5] I normally rely upon. I do not rely upon the [6] oral representations of my client.

[7] They may ask me to assume those [8] things are true, but I tell my client, that You [9] must prove those things. I can't do that for [10] you as a CPA. I can't independently vouch for [11] that number or testify to that that is a proper [12] basis for the damage claim.

[13] And so in that situation, I would [14] ask my client to come in and give proper [15] evidence as to that key assumption. Otherwise, [16] my damage claim is useless to the jury.

[17] Q: Now, you mentioned that part of [18] the reason that you would not have relied on the [19] type of information Mr. Cobb relied on here is [20] because that you're a CPA, and that's [21] inconsistent with your practice as a CPA; is [22] that correct?

[23] A: It is inconsistent with my [24] practice and the standards of my profession.

[1] Our job is to attest to the accuracy of other [2] information.

[3] But to do that, we have to do a [4] lot of detailed testing and analysis, and we [5] don't rely upon what our clients tell us. We [6] have to do a lot of other work to corroborate [7] that information before we will say that is [8] reliable information.

[9] Q: Mr. Cobb is a CPA, too, isn't he?

[10] A: He is.

[11] Q: Now, have you seen any evidence [12] that the '002 patent, as opposed to the use of [13] guard rings, in general, through other, what's [14] been called prior art references, increase the [15] production yield or result in cost savings?

[16] A: I've seen no information as to the [17] amount that that increase would be.

[18] Q: For the '002 patent as opposed to [19] other guard ring technology; is that correct?

[20] A: Other guard ring technology or [21] other environmental factors that would reduce [22] electrostatic discharge.

[23] Q: And those would include things [24] that other witnesses have mentioned already like

Page 1839

[1] ion showers, and the clean room clothing, and [2] air filter systems, things like that?

[3] A: Yes. It increased humidity, [4] anti-static bracelets, all the other types of [5] things that are there to actually make [6] electrostatic discharge not even occur at all.

[7] So you wouldn't even need to have [8] something that would release it, because it's [9] never going to occur.

[10] Q: Right. And you're not testifying [11] that those other methods of controlling [12] electrostatic discharge are a hundred-percent [13] foolproof, are you?

[14] A: I don't have any information about [15] what causes reduced electrostatic discharge. I [16] have not seen any evidence on that in this case [17] for any particular factor.

[18] Q: If you had been hired by LPL in [19] this case, what information would you have asked [20] LPL to present at trial in order to support your [21] damage model?

[22] A: Well, actually I think it would be [23] the same thing that Mr. Cobb asked for. He [24] actually asked for this information and was told

Page 1840

[1] that it just didn't exist, so I would have done [2] the same thing he did, but then

when I found [3] didn't exist, I would say we have a problem and [4] then try to figure out how we would resolve it [5] by saying let's do a scientific test at least in [6] the laboratory to figure out what the potential [7] yield increase might be.

[8] Q: So in this case, what steps did [9] you take to determine the reasonable royalty [10] rate?

[11] A: Well, I had no information to [12] really know what the rate increase was, but I [13] have to come up with a number, so I used [14] basically the cost savings that Mr. Cobb had [15] introduced in his actual report as my starting [16] point. But then I used what's called the 25 [17] percent rule to develop the starting point for [18] the analysis at the hypothetical negotiation.

[19] Q: Can you explain the 25 percent [20] rule?

[21] A: Yes. It's a rule of thumb in the [22] licensing industry that everything else being [23] equal, not really understanding all the [24] intricacies of the unique factors of this

Page 1841

[1] situation, that in normal negotiation the reason [2] why you pay a royalty or license for a patent is [3] it's going to increase your profits and that [4] could be because you're going to have better [5] features, it's going to increase your price, or [6] maybe you reduce your costs like here.

[7] So anyway, you look at that cost [8] savings and that price increase and whatever it [9] is, you say that 25 percent of that will be paid [10] by the licensee to the patent owner, and the [11] licensee will keep the other 75 percent because [12] they're bearing all the risks of manufacturing [13] and marketing and trying to sell the product, so [14] that's a fair split of this incremental profit [15] that's generated by the invention.

[16] Q: Now, is 25 percent a hard and fast [17] number?

[18] A: No. And some people call it the [19] 15 to 35 percent rule, but it is not a hard [20] number, where you end up I think is the right [21] place to start the negotiation.

[22] Q: Do you use the 25 percent rule in [23] all of your work?

[24] A: I wouldn't say I use it in all of

Page 1842

[1] my work, but most of the time where I'm [2] calculating damages either for the patent owner [3] or the alleged infringer, that's where I start my [4] hypothetical negotiation.

[5] Q: Now, what range of cost savings [6] did Mr. Cobb indicate that he was relying on in [7] his June 2nd expert report?

business.

Page 1889

[1] So those are all I think the key [2] factors that I thought about before arriving at [3] my final conclusion.

[4] Q: And was there also anything you [5] took into consideration from Mr. Holmberg's [6] testimony, the inventor of the '002, that was [7] shown to the jury yesterday or the day before?

[8] A: Well, I haven't done it when I [9] reached my conclusion, because I didn't have [10] that information. But I think that's consistent [11] with my view of a possible design around, [12] because this person knows what this invention [13] is.

[14] And when he then started some [15] companies up to make products using LCD [16] technology, he didn't feel it was necessary to [17] have a license. So, obviously, he was doing [18] something else, and could make products in this [19] industry.

[20] Q: So although you believe Mr. [21] Holmberg's testimony is consistent, Mr. [22] Holmberg's testimony played no role in your [23] conclusions as to the reasonable royalty rate in [24] this case; is that correct?

Page 1890

[1] A: No, I wasn't aware of that [2] testimony until I saw it in Court the other day.

[3] MS. GABLER: Brian, if we could [4] have the next slide.

[5] BY MS. GABLER:

[6] Q: Mr. Wagner, can you explain this [7] slide to the jury?

[8] A: Yes. This is my ultimate [9] conclusion after explaining to you, and in very [10] brief form, all of my analysis. The starting [11] point, remember, was 0.9 percent of sales. But [12] based on weighing all of that information, and [13] coming up with my reasoned judgment, that I [14] think the rate would be lower to, approximately, [15] one-quarter of one percent or .25 percent of [16] sales.

[17] Q: And using that royalty rate, the [18] rate of 0.2 percent that you believe to be [19] reasonable, did you calculate actual damage [20] numbers to be awarded in the event the jury [21] finds the '002 patent is valid and has been [22] infringed by CPT?

[23] A: Yes, through April 30th, 2006.

[24] MS. GABLER: Brian, can we have

Page 1891

[1] the next slide, please?

[2] BY MS. GABLER:

[3] Q: Mr. Wagner, can you explain this [4] slide to the jury?

[5] A: Yes. This has the two different [6] royalty bases. I calculated the ones in the [7] first column where it says Claim 1 is actually [8] Claim 1, and it also includes Claim 1 and Claim [9] 8. And as I testified before, the royalty base [10] is, approximately, \$686 dollars from May 13th, [11] 2005 through April 30th, 2006.

[12] Now, applying what I think is a [13] reasonable royalty rate, I believe the [14] appropriate amount of damages is \$1,715,386.

[15] Q: And in the event that the jury [16] finds that only Claim 8 is both infringed and [17] valid, what damage number do you believe is [18] appropriate in this case?

[19] A: That the appropriate royalty base [20] under that set of facts would be, approximately, [21] 683 or \$684 million, applying my .25-percent [22] royalty rate, the damages should be \$1,709,903.

[23] Q: Okay. Now, your damage model, as [24] we've noted, only runs through April 30th, 2006;

Page 1892

[1] correct?

[2] A: That is correct.

[3] Q: And are you maintaining that LPL [4] would not be entitled to damages from May 1, [5] 2006 through the date of judgment in this case [6] in the event CPT is found to have infringed a [7] valid patent?

[8] A: No. I think that LPL is entitled [9] to this same royalty rate on its sales between [10] April 30th, 2006 and the date of judgment.

[11] Q: Okay. And how do you believe that [12] would properly be calculated?

[13] A: Well, in my experience, normally [14] there would be an accounting, and CPT would be [15] required to produce the same type of information [16] they produced to me already to make this [17] calculation. That calculation would be made, [18] and the additional royalty would be paid.

[19] Q: And, again, these damage numbers [20] that you have up there, \$1,715,386, and \$1, [21] 709,903, these numbers assume that at least one [22] of the claims is valid; correct?

[23] A: That is correct.

[24] Q: And that at least one is

Page 1893

[1] infringed; correct?

[2] A: That is also correct.

[3] Q: And that LPL has demonstrated and [4] the jury has found that CPT induced anybody who [5] sells products with CPT panels in it in the [6] United States to infringe the '002 patent other [7] than the three other defendants in this case?

[8] A: That is also correct.

[9] MS. GABLER: Thank you. I have no [10] further questions.

[12] MS. BRZEZYNSKI: May I approach, Your Honor?

[13] THE COURT: Sure.

[14] CROSS-EXAMINATION

[15] BY MS. BRZEZYNSKI:

[16] Q: Good afternoon, Mr. Wagner.

[17] A: Good afternoon.

[18] Q: Mr. Wagner, you were shown certain [19] February 2002 letters during your direct [20] examination. Do you recall that?

[21] A: I do.

[22] Q: But you have expressed no opinion, [23] correct, as to the date Chunghwa first received [24] notice from LG Philips; correct?

Page 1894

[1] A: That is correct. I am not [2] expressing an opinion on that subject.

[3] Q: Okay. In fact, you have also [4] calculated damages for the period from 2002 [5] through April 30th, 2006 correct?

[6] A: I did in my report.

[7] Q: Okay. Let's take a look at your [8] Supplemental Schedule 5B please.

[9] In fact, your total U.S. sales of [10] CPT's accused products during the period from [11] February of 2002 through April 30th of 2006 is [12] \$2.215 billion; correct?

[13] A: That is correct based on my work.

[14] Q: And Mr. Cobb's total U.S. sales [15] for the period from February 2002 through April [16] 30th, 2006 is \$2,353,965,954; is that correct?

[17] A: That's incorrect. [18] I'll help you. You said through [19] April 30th.

[20] His actually goes through June [21] 30th.

[22] Q: You're right.

[23] A: His actually starts March 1st [24] where mine starts February 8th. There's a

Page 1895

[1] little bit of timing.

[2] If the time periods are the same, [3] our numbers would be almost exactly the same.

[4] Q: That's absolutely right. If the [5] time periods are the same, it's your position [6] that your numbers, your royalty base for U.S. [7] sales would be essentially the same?

[8] A: Yeah. I think Mr. Cobb and I can [9] agree as to the royalty base, if that's [10] necessary.

[11] Q: Okay. Great. [12] Then let's go on

[8] during testimony, no foundation to the admission [9] of Plaintiff's Exhibit 28.

[10] Plaintiff's Exhibit 127 is an [11] interoffice memo from Honeywell which is dated [12] April 7, 1988. No questions were asked on that [13] exhibit and no foundation was laid.

[14] With respect to Plaintiff's [15] Exhibit Number 130, this is a letter from Scott [16] Holmberg to Mr. Zele. The letter was referred [17] to in the segment of the deposition that was [18] played, one segment of Mr. Holmberg's [19] deposition. There was no foundation laid for [20] this letter. And attached to this exhibit is a [21] document that was not referred to at all. That [22] is another Honeywell memorandum.

[23] And I would point out that with [24] respect to the January 21st, 1998 letter, when

Page 1930

[1] it was referred to by Mr. Holmberg in his [2] deposition, it was referred to as a single page [3] document with the Bates stamp number LPL [4] 11013076, a single-page document.

[5] When it was submitted as [6] Plaintiff's Exhibit 130, it had an attachment to [7] it which is a second memorandum produced, or [8] prepared by its physical appearance from [9] Honeywell. There has been no foundation laid [10] for that document and no reference to it during [11] the course of any of the testimony.

[12] On July 21st, there are a number [13] of documents that were moved into evidence. The [14] following documents upon review were not [15] referred to during the course of testimony and [16] we object to those documents on the basis of [17] foundation, and those documents are previously [18] marked as Plaintiff's Exhibit Numbers 66, 67, 69 [19] through 73, 75 through 80, 83, 86 through 92, [20] 94, 99, 102, 104, 105, 111, 113, 114 through [21] 120, 133, 135, 137 and 138.

[22] One other comment with respect to [23] the letter, which has been marked as Plaintiff's [24] Trial Exhibit Number 130. I want to emphasize

Page 1931

[1] in particular on that document that, again, [2] although Mr. Holmberg referred to it as a letter [3] that he sent, that letter is inadmissible under [4] any possible theory.

[5] No foundation was laid for it. It [6] has no probative value.

[7] The letter and contents itself is [8] filled with questions for Mr. Holmberg and [9] qualifications about the accuracy of the [10] information contained therein. There was no [11] effort made during Mr. Holmberg's deposition to [12] lay a founda-

tion for the admission of this [13] document.

[14] It's not relevant. If the Court [15] were to deem it to be relevant, it's [16] inadmissible as confusing. In my view, it's [17] complete hearsay, and there's no exception under [18] business rule, because this is a document that [19] was created by the date on it on January 21 of [20] 1998. And it recites and relates to events that [21] occurred ten years prior to the creation of the [22] document itself.

[23] THE COURT: All right. Thank you. [24] Ms. Corbin.

Page 1932

[1] MS. CORBIN: Your Honor, I just [2] have one more issue. And that is I believe that [3] plaintiff's going to put on its rebuttal case on [4] obviousness.

[5] And in Dr. Schlam's validity [6] report, there is reference to those documents [7] which were excluded by those late-produced [8] Honeywell documents. And I just want to be sure [9] that there isn't going to be any explicit or [10] implicit reference to those for support that the [11] invention was made prior to the filing dates.

[12] And there is one other element [13] that — where Dr. Schlam's testimony is that the [14] yield, and this has to do with secondary indicia [15] of nonobviousness necessary that the combination [16] of the outer ring and inner ring combined create [17] a greater yield than either of those would [18] alone.

[19] And part — during his deposition, [20] he said part of the basis of that opinion was [21] conversations he had with two individuals at [22] another LCD manufacturing company. And he would [23] not even reveal the names of those individuals.

[24] So since he was unwilling to be

Page 1933

[1] forth coming even with who those individuals [2] were, I don't believe he should be able to make [3] reference to that here.

[4] THE COURT: All right. Let's hear [5] plaintiff.

[6] MR. BONO: Your Honor, first of [7] all, let me address Exhibits 12 and 13, which I [8] guess we're getting hit now with an accusation [9] of stuffing.

[10] Your Honor, there were no [11] objections made on Defendants' objection list to [12] these two documents except for authenticity. [13] They had made the multiple document objection on [14] other documents, which we then corrected.

[15] So we understood that they were [16] not objecting to these on any multiple-

document [17] basis. In any event, those documents are part [18] of the four CD files, which are exhibits, I [19] believe, 4 through 7 in the case.

[20] Those are the books. And these [21] are just printouts of some pages in the book as [22] Your Honor described.

[23] So they never objected. They [24] didn't have a basis to object. And there should

Page 1934

[1] be no problem with those documents.

[2] THE COURT: The objection will be [3] overruled as to Exhibit 12 and 13.

[4] MR. BONO: With respect to — let [5] me address the other series of documents that [6] they objected to. These are basically other STR [7] files, photos of modules, et cetera.

[8] Dr. Schlam did refer to them [9] generally in testimony. And I think they [10] have been sufficiently identified for purposes [11] of admission.

[12] THE COURT: What exhibits are you [13] referring to in that? Are you referring to the [14] 8 and 28, or are you referring to Exhibit 66 [15] through 138 that were cited?

[16] MR. BONO: Certainly 8 and 28, [17] Your Honor. Let me look at 66.

[18] No. Those are — those have to do [19] with the witness.

[20] THE COURT: Something else. So [21] you're referring to 8 and 28, the mask file, the [22] date.

[23] MR. BONO: And the photos of the [24] one module, yes, Your Honor.

Page 1935

[1] THE COURT: I'll overrule the [2] objection.

[3] MR. BONO: With respect to the [4] other documents, 66, 69 through 73, and the [5] other categories of the other ones that counsel [6] mentioned, they are all documents produced by [7] the defendants in this case, which are their own [8] business records.

[9] They were referred to in several [10] respects by the deposition testimony we read in. [11] And I don't see that there's any basis for the [12] objection on the part of defendants.

[13] THE COURT: Okay. Deposition [14] testimony, the objection is overruled as to the [15] series of exhibits beginning at 66 and ending at [16] 138 cited by Mr. Sweeney.

[17] MR. BONO: And then lastly is [18] the —

[19] THE COURT: 127 and 130.

[20] MR. BONO: Yeah, with respect to [21] — with respect to 127, we'll withdraw the [22] exhibit, Your Honor.

[23] THE COURT: All right. The [24] ex-

[10] inducement or infringement. And the defendants [11] have not sufficiently contradicted that showing.

[12] Consequently, LG Philips submits [13] that no reasonable juror could find that the [14] defendants have either willfully infringed — I [15] apologize. No reasonable juror could find that [16] the defendants have not willfully infringed the [17] '002 patent or that they have not induced [18] infringement of the '002 patent.

[19] **THE COURT:** All right. Let the [20] record reflect those motions. Judgment is [21] reserved.

[22] With regard to any confidential [23] information that has been ruled during the trial [24] to be sealed, what we're going to do is anybody

Page 2010

[1] that's connected to a party will be excluded [2] from the entire closing argument.

[3] I'm not going to exclude through [4] the opening — through the closing, I'm sorry, [5] through closing argument anybody connected to a [6] party excluded entirely that was covered by the [7] protective order.

[8] With regard to others that may be [9] in the courtroom, except for media, when you get [10] to the point in closing argument that you want [11] to close the courtroom, you'll let me know. And [12] then when you finish that part of the argument, [13] you'll let me know and the marshal will bring [14] them back. Okay? [15] Okay. We'll be in recess for five [16] minutes.

[17] **THE CLERK:** All rise.

[18] (A brief recess was taken.)

[19] **THE COURT:** All right. The jury [20] is on its way in.

[21] (Jury entering the courtroom at [22] 3:47 p.m.)

[23] **THE COURT:** All right. Be seated, [24] please.

Page 2011

[1] Mr. Bono.

[2] **MR. BONO:** Thank you, Your Honor. [3] Your Honor, I understand I can [4] reserve some time for a rebuttal in closing [5] statement?

[6] **THE COURT:** Yes, you may.

[7] **MR. BONO:** Thank you. I would [8] like to do that.

[9] Good afternoon, ladies and [10] gentlemen of the jury. I spoke with you about [11] six or seven days ago in opening statement and [12] said I would have a second opportunity to speak [13] with you in closing.

[14] My name is Gap Bono and, of [15] course, I represent the plaintiff, LG

Philips [16] LCD. First of all, I would like to thank each [17] and every one of you for the time and effort you [18] have spent listening to the testimony, looking [19] at the exhibits, listening to the experts and, [20] of course, the toughest job of all, listening to [21] us lawyers talk on and on and on. I know this [22] has not been easy and it's some difficult [23] evidence that's been presented and I appreciate [24] your time and effort. And I know it's been a

Page 2012

[1] personal burden on each and every one of your [2] lives having to be here for the past ten days [3] and my client and I deeply appreciate that.

[4] The defendants infringe Claim 1 [5] and 8 of the '002 patent. And the evidence you [6] have seen has been overwhelming that they have [7] infringed.

[8] The defendants have sought to [9] distract you from the core evidence of [10] infringement by attempting to confuse you and [11] distract you with peripheral issues.

[12] But what this case is really about [13] is I know there is a farmer's market that's [14] conducted every week out here on King Street, [15] and this case is no different than if CPT were [16] selling T-shirts or some other articles with LG [17] Philips' logo on them, they would have to pay a [18] royalty to LG Philips for doing such. That's [19] simply what this case is about.

[20] You'll recall at the opening [21] statement of the defendants' counsel, they [22] started their distraction in this case. They [23] said that LG Philips was a bully. There has [24] been no evidence in this trial that LG Philips

Page 2013

[1] is a bully. In fact, you saw evidence that LG [2] Philips presented and offer its entire patent [3] portfolio to Chunghwa to license.

[4] Defendants' counsel also said in [5] their opening that there was no copying on their [6] part. Again, that's another distraction.

[7] The Judge will instruct you in his [8] jury instructions that intent to infringe is — [9] does not matter, the sole question presented to [10] each and every one of you is do Chunghwa Picture [11] Tubes modules infringe, yes or no.

[12] They also told you to distract [13] your attention from the fact of whether they [14] infringe, they told you they bought their [15] technology from Mitsubishi ADI. They told you [16] that in their opening statement as if that would [17] again distract you by saying they didn't [18] infringe, they just bought it from Mitsubishi.

[19] As you have seen, Chunghwa Picture [20] Tubes did not check any U.S. patents when they [21] bought that technology. And counsel for [22] defendants told you in his opening statement [23] that at the time they bought the technology, [24] they manufactured the products intending to sell

Page 2014

[1] them worldwide, and yet they did not checking of [2] any U.S. patents.

[3] They also claimed in their opening [4] statement that LG Philips does not and did not [5] enforce its '002 patent. Again, a distraction [6] technique. And boy, from the evidence I've seen [7] at trial for the last ten — seven days, they [8] have done a great job of trying to confuse you [9] as to the facts.

[10] This was another technique. [11] However, as you saw the evidence, that was not [12] true. LG Philips enforced its '002 patent [13] against Toshiba and Mitsubishi, for example, the [14] fourth and fifth largest LCD makers at the time.

[15] They also mentioned to you the [16] other Taiwan manufacturers, AUO and CMO. Well, [17] I can assure you that AUO and CMO are looking at [18] this case and waiting for your decision. And as [19] I mentioned in my opening, there is no way LG [20] Philips has the resources to sue everybody at [21] the same time.

[22] They gave you another diversion, [23] Samsung, to distract you from their conduct. [24] And regardless of whether Samsung is complicated

Page 2015

[1] or not, it's irrelevant. The issue before you [2] is whether Chunghwa Picture Tubes and the [3] defendants infringed the patent.

[4] In my opening statement a few days [5] ago, I said that we would prove this case out of [6] the mouths of the defendants' own witnesses, and [7] using their own documents. And I believe this [8] is what you saw for the past six days. You [9] heard the testimony of defendants, both live and [10] on videotape depositions. You saw Chunghwa [11] Picture Tubes' own documents.

[12] The Judge will instruct you that [13] that is the evidence you should consider in your [14] deliberations.

[15] You heard the testimony of [16] Dr. Schlam, our expert. I think you would agree [17] with me that his work was very thorough. He [18] reviewed and analyzed virtually everything you [19] could look at. He reviewed documentation as you [20] saw when he went through his testimony in [21] excruciating detail. He looked at all forty-one [22] of CPT's products which contain both outer guard [23] ring and both an outer and

inner guard ring. [24] And there were forty-one products in total.

Page 2016

[1] And you saw his testimony, he [2] studied, for example, the following: Mask [3] files. These are the crown jewels as CPT [4] admitted of their design and their products.

[5] He studied the array specs. These [6] are documents that provide the particular [7] specifications.

[8] He studied reverse engineering [9] which were the actual photos blown up of their [10] actual products. He looked at the mother glass, [11] and you saw samples in the courtroom which [12] showed the actual substrates and the electronic [13] circuits on it.

[14] Dr. Schlam was very thorough. He [15] explained to you, also, in detail, you'll recall [16] this testimony, that the mask files depict a [17] three-dimensional layering that must be examined [18] to see what is actually in CPT's products.

[19] And he showed you the [20] three-dimensional analysis that he had done, so [21] you could appreciate how their products are [22] made. This was in sharp contrast to CPT's [23] presentation in this case, which was — for the [24] most part, they used so-called schematics. You

Page 2017

[1] saw them presented throughout their case.

[2] These are, basically, stick [3] drawings of the product's design. This doesn't [4] tell you exactly what's in the products, how [5] they're designed or how they're really made. [6] It's much like depicting the human body by [7] drawing a grade school stick picture of the [8] human form.

[9] It certainly looks like a person, [10] but it nowhere depicts what actually is the [11] essence and complications of the human body.

[12] You also heard evidence of who the [13] parties are in this case. You heard evidence [14] from Dr. Wagner or Mr. Wagner, defendants' own [15] damage expert, and he called LG Philips a [16] top-tier company.

[17] You saw the evidence, which was [18] un rebutted that they create innovative products, [19] and they've been first to market products for [20] the past decade. You saw the numerous awards [21] that LG Philips had received for both customer [22] satisfaction and technology. You heard the [23] testimony that LG Philips invested over \$1 [24] billion in the past eight years on research and

Page 2018

[1] development.

[2] Now, unlike what they will tell [3] you,

part of that \$1 billion is not doing their [4] own investment, but also searching the world for [5] patents and inventions that they purchase from [6] others in order to build up their R & D in order [7] to produce innovative and new products for all [8] of us.

[9] Without doubt, they are a [10] technology leader. You heard the testimony.

[11] They have over a thousand patents.

[12] Now, these are not my words. [13] These are the words of the defendants themselves [14] describing Chunghwa.

[15] Their own expert says Chunghwa is [16] a follower of technology. That's what he [17] testified to.

[18] You heard it right here. He also [19] said they're an imitator.

[20] And Sally wang, ViewSonic, a [21] co-defendant in this case, you heard her say [22] Chunghwa produces me too products.

[23] Now, they accused LG Philips of [24] being a bully, but what did the evidence show

Page 2019

[1] you? LG Philips has licensed its products, its [2] patents to numerous companies.

[3] And then when LG Philips needed [4] licenses from somebody else's patents, it took [5] licenses from various companies.

[6] And you saw the pile of paper in [7] the corner of the courtroom. LG Philips was [8] willing to license Chunghwa, give them their [9] entire patent portfolio for a worldwide license. [10] Hardly the actions of a bully.

[11] Now, in opening statement, I spoke [12] with you about the five core issues you would [13] need to decide. And here we are seven days [14] later.

[15] And those issues are: [16] Infringement, inducement to infringe, willful [17] infringement, validity, and damages.

[18] And I'd like to take these issues, [19] go through these issues with you one by one.

[20] First infringement, the patent [21] statute says that, "Whoever, without authority, [22] imports, offers to sell, sells or uses within [23] the United States a product which is made by a [24] process patented in the United States shall be

Page 2020

[1] an infringer." And I've highlighted in yellow [2] the language a product which is made by a [3] process patented in the United States. This is [4] what we're talking about in this case.

[5] We know that Chunghwa models are [6] made by a process patented in the United States. [7] And we allege that their modules infringe Claim [8] 1 and Claim 8

of the '002 patent, both literally [9] and under the Doctrine of Equivalents.

[10] And Judge Farnan will instruct you [11] on the meaning of literal infringement and on [12] the test for Doctrine of Equivalents, because [13] infringement can be found either literally or [14] under the Doctrine of Equivalents under the law.

[15] Chunghwa's knowledge of the '002 [16] patent is immaterial to the issue of [17] infringement. Judge Farnan will instruct you [18] that Chunghwa's intent to infringe is [19] irrelevant.

[20] The sole fact for you to determine [21] is: Do their products infringe, yes or no?

[22] Now, you heard the testimony of [23] Dr. Schlam. And you'll recall how thorough he [24] was.

Page 2021

[1] He reviewed Chunghwa's [2] Court-ordered disclosure. He reviewed their [3] electronic mask files in detail for all 41 of [4] their products.

[5] He examined their products [6] themselves. He examined the mother glass [7] samples that they produced to us and sent to us [8] all the way from Taiwan in discovery.

[9] He reviewed their array design [10] specs. He looked at deposition testimony.

[11] He looked at reverse engineering [12] of their actual products, and of course, he [13] reviewed the Court's claim construction order.

[14] And you will recall that was the [15] Court-ordered disclosure that listed all their [16] products. You'll recall the mask files that he [17] examined, those very complex mask files that [18] tell you exactly what's in the product.

[19] Not the schematics that CPT's [20] lawyer showed you all during this trial, and not [21] what I suspect they're going to show you during [22] their closing. This is what's in the product, [23] not the schematics.

[24] Dr. Schlam also looked at the

Page 2022

[1] actual products themselves. He looked at the [2] mother glass.

[3] He looked at the array specs where [4] they actually put in their specifications for [5] what's in their products. He looked at the [6] reverse engineering, the actual pictures of the [7] products. You recall that.

[8] He also looked at the Court's [9] claim construction order which defines certain [10] terms that have to be used.

[11] Now, that brings us to Claim 1 of [12] the '002 patent. Now, Claim 1 has a lot of [13] terms, you know that, we have talked about that [14] all during this trial. All of